



## Early Stakeholder Outreach — Beneficial Use Regulatory Program Development

*Ohio EPA prepares early stakeholder outreach fact sheets to ensure stakeholders are brought into the review process as early as possible and to obtain additional input and discussion before development of interested party draft rules.*

In June, 2012, Ohio EPA released an early stakeholder outreach fact sheet which discussed an approach to promote responsible and beneficial use of certain industrial wastes.

The Agency hosted a series of stakeholder meetings and is now releasing this updated fact sheet to give stakeholders a better understanding of how the concepts have evolved over the past year.

To facilitate continuation of an open and collaborative dialog with the Agency, we are also releasing conceptual draft rule language.

### What is conceptual draft rule language?

The conceptual draft rule language reflects Ohio EPA's vision of how a beneficial use program might be carried out in Ohio. Preparing this conceptual draft rule language has helped the Agency identify areas that need additional stakeholder input and discussion. This conceptual draft rule language is not complete, has not undergone a full internal Agency review and is not intended to be the quality of an interested party draft rule package.

### What are the basic concepts?

In June, 2012, Ohio EPA suggested a single regulatory program that would specifically address the beneficial use of materials regulated as solid wastes under Ohio Revised Code (ORC) Chapter 3734 and/or industrial wastes or other wastes regulated under ORC Chapter 6111 when these materials are burned, placed on the ground or used in products that are placed on the ground.

Ohio EPA also suggested the beneficial use rules should be organized into their own new program chapter, Ohio Administrative Chapter 3745-599, as illustrated in the conceptual draft rule language.

To avoid duplication with existing regulatory programs, the Agency also suggested specific wastes such as scrap tires, land application of sewage sludge and composting should be excluded from new program.

Ohio EPA also suggested the following: beneficial use approvals should be granted through authorizations by rule (pre-approved), general permits, or individual permits; separate authorizations should no longer be required under the Integrated Alternative Waste Management Program (IAWMP) or Land Application Management Plan (LAMP); and specific beneficial uses should not require any beneficial use approval.

### How can I provide input?

The Agency is seeking stakeholder input on the proposed concepts included in the May, 2013, *Beneficial Use Rules Development Concepts* document and the conceptual draft rules. When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- explain how you arrived at your estimate for potential burdens, benefits or costs;
- provide specific examples to illustrate your views; and
- offer alternatives.

Written comments will be accepted through close of business June 21, 2013. Please submit input to:

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### What if I have questions?

Please contact John Schierberl at (614) 644-2621 or [john.schierberl@epa.ohio.gov](mailto:john.schierberl@epa.ohio.gov).

Ohio EPA will host a **10:00 AM** stakeholder meeting on **June 12** in Columbus, Ohio to answer any questions prior to the comment period deadline.

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The Agency continues to support these basic concepts, but is seeking additional stakeholder input.

### How are concepts being updated?

We are seeking stakeholder input and discussion on the following concepts and questions:

- The Agency recognizes that the proposed beneficial use concepts and authorization mechanisms could also apply to non-industrial materials and uses, including agricultural and other uses of slightly contaminated soil and dredged harbor and lake sediments. To address this broader scope of materials, the conceptual draft rule replaces the previous term “industrial byproduct” with the broader term “select waste.”
- During the stakeholder discussions, a list of land-applied construction products manufactured using select wastes as ingredients were identified. These products have well-established markets and are subject to significant engineering and contractual construction material specifications. Ohio EPA now suggests that these materials and uses be exempted from the rules to clarify that use of select wastes as ingredients in certain types of construction products have no obligation under the beneficial use program.
- Ohio EPA continues to be open to the concept of certain beneficial use authorizations by rule (pre-approved) for other uses of select wastes. While Ohio EPA has not yet identified any specific beneficial uses for authorization by rule at this time, a placeholder rule is included in the conceptual draft rule language.
- The Agency has not yet evaluated costs for the proposed program, so the conceptual draft rule language contains reference to permit fees but no fee amount is specified.
- The conceptual draft rule language includes the use of standardized aquatic toxicity biological tests for waste characterization and analysis.
- The Division of Surface Water suggests that the beneficial use program include authorization for land application of liquid wastes. This concept was not raised during stakeholder meetings, so the Agency has not included this type of use in the May, 2013 conceptual draft rule language. The Agency welcomes stakeholder input and discussion regarding this issue and will consider comments submitted by the June 21, 2013 deadline.
- Ohio EPA recognizes that that the person actually using the select waste under a beneficial use authorization may not necessarily be either the permitted generator or distributor and may not have any knowledge of the applicable beneficial use requirements. The conceptual draft rule language includes a general requirement that no person shall beneficially use a select waste without authorization. Ohio EPA understands that there may be practical circumstances where requiring a permit of the end user or person doing the land application is impractical or unnecessary. The Agency welcomes stakeholder input and discussion regarding this issue and will consider comments submitted by the June 21, 2013 deadline.

### What input is the Agency seeking?

The Agency is seeking stakeholder input on the suggested concepts included in the [May 24, 2013, Beneficial Use Rules Development Concepts](#) and the [conceptual draft rule language](#) documents. General comments and specific factual information must be submitted by the [June 21, 2013](#) deadline. The following questions may help guide you as you develop your comments.

- Should the Agency consider any alternative framework?
- What options are available for improving an identified concept?
- Are there considerations the Agency should take into account when developing a specific concept?
- Is there any information or data the Agency should be aware of when developing program concepts or rule language?

Ohio EPA would especially like to hear information regarding the following from stakeholders who may be impacted by the new program.

- Would this regulatory program have a positive impact on your business? Please explain how.
- Would this regulatory program have an adverse impact on your business? If so, please identify the nature of the adverse impact (for example, license fees, fines, employer time for compliance).

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### What's the next step?

After the **June 21, 2013** comment deadline, Ohio EPA will evaluate feedback and facilitate additional stakeholder engagement as needed to further develop the beneficial use program rules. The Agency will then prepare a draft version of rules for interested party review. After incorporating interested party comments, Ohio EPA will begin the rules filing process required by the Joint Committee on Agency Rule Review (JCARR). Visit JCARR's website for meeting dates and agenda items at <https://www.jcarr.state.oh.us/>.

### How can I track the program and rule-development progress?

Stakeholders are encouraged to sign up for the Agency's **electronic mailing list** which provides automatic updates about various topics, including beneficial use. Registered users will receive progress updates and be notified when new information is posted on the **beneficial use program website** ([epa.ohio.gov/dmwm/Home/BeneficialUse.aspx](http://epa.ohio.gov/dmwm/Home/BeneficialUse.aspx)). To sign up, go to [ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage](http://ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage).